



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 230504-0122]

RIN 0648-BM23

#### Atlantic Highly Migratory Species; Electronic Reporting Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Advance notice of proposed rulemaking; request for comments.

**SUMMARY:** In this advance notice of proposed rulemaking, NMFS is considering management options to modify or expand reporting requirements for Atlantic highly migratory species (HMS). All HMS reporting would require electronic submission using an online or mobile reporting application. Specific to commercial vessel reporting, NMFS is considering options for electronic submission of information required on the existing, paper logbooks, as well as a logbook requirement for owners of vessels with Atlantic Tunas General category permits, Atlantic Tunas Harpoon category permits, and/or Swordfish General Commercial permits. Specific to recreational vessel reporting, NMFS is considering a logbook requirement for owners of HMS Charter/Headboat permitted vessels, as well as expanding HMS Angling permit reporting requirements. NMFS is also considering measures to encourage reporting compliance for vessel owners with HMS open access permits. Specific to dealer reporting, NMFS is considering requiring dealers to enter certain fish individually in their dealer reporting programs and a technical change in bluefin tuna (BFT) reporting requirements. Finally, specific to the HMS Exempted Fishing Permit (EFP) Program, NMFS is considering offering an electronic reporting platform, as well as some technical changes to reporting requirements.

**DATES:** Written comments must be received by August 18, 2023. Public meetings and webinars will be held on the dates listed in Table 2 of the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** Comments may be submitted electronically via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter “NOAA-NMFS-2023-0047” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Public meetings will be held at the locations listed in Table 2 of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Carrie Soltanoff

([carrie.soltanoff@noaa.gov](mailto:carrie.soltanoff@noaa.gov)), Guy DuBeck ([guy.dubeck@noaa.gov](mailto:guy.dubeck@noaa.gov)), Erianna Hammond ([erianna.hammond@noaa.gov](mailto:erianna.hammond@noaa.gov)), or Ann Williamson ([ann.williamson@noaa.gov](mailto:ann.williamson@noaa.gov)) by email, or by phone at 301-427-8503.

**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries (tunas, billfish, swordfish, and sharks) are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are

implemented by regulations at 50 CFR part 635. The regulations specific to HMS reporting can be found at § 635.5.

### **Need for Action**

In this advance notice of proposed rulemaking, NMFS is considering options to: streamline and modernize logbook reporting by converting existing commercial paper logbooks to electronic logbooks; expand logbook reporting to recreational and commercial vessel owners via electronic logbooks, to be consistent with Agency efforts in other fisheries and to augment data necessary for fishery management; collect additional information through existing electronic reporting mechanisms for dealers and recreational vessel owners to augment data collected for fishery management; and facilitate HMS reporting including considering ways to incentivize reporting compliance (or penalize non-compliance) and offering an electronic reporting platform for HMS EFP Program permit holders. Overall, the intent of this rulemaking is to streamline HMS reporting for recreational and commercial fisheries consistent with the “One Stop Reporting” initiative for HMS, Greater Atlantic Region, and Southeast Region fisheries. The intent of the “One Stop Reporting” initiative is to expand capabilities for the submission of a single electronic report to satisfy overlapping reporting requirements of vessels holding permits in multiple regions.

The need for each action is described in more detail below. Each management option under consideration is briefly characterized via background information on the topic and a description of the options including initial pros and cons for implementing the options. In any potential future rulemaking, measures considered would be contingent on available funding.

#### **A. Electronic Commercial Atlantic HMS and Southeast Coastal Fisheries Logbooks**

##### *Background*

Owners of vessels with HMS commercial limited access permits (Atlantic Tunas Longline category, shark directed, shark incidental, swordfish directed, swordfish incidental, swordfish handgear) are required to report their fishing activities in a logbook. Logbooks typically require information on the gear used, the date a fishing trip occurred, the quantity of fish landed, and the fishing location. Because commercial vessel owners are reporting these data themselves, it is referred to as “self-reported” data. Different logbooks are required for the different fisheries and used depends on the data collection needs and requirements of the different fisheries. These logbooks (Atlantic HMS logbook and Southeast Coastal Fisheries Logbook Program) are described below.

Owners of HMS permitted vessels using pelagic longline gear are required to use the Atlantic HMS logbook; however, HMS vessel owners who are selected to report and who use other gears, including rod and reel, green-stick, and bottom longline gear, may also report fishing activities in this logbook. The vessels using the Atlantic HMS logbook primarily target swordfish and tunas.

There are three forms that must be submitted for an Atlantic HMS logbook report to be complete: the trip report form, the set report form, and individual dressed weights for all fish sold, which are provided on the weighout tally sheets. The trip report form provides information on the trip itself, such as the start and end dates, the vessel name and identification number, which dealers purchased landings, and port information. Economic information, such as the total cost of trip expenses (*e.g.*, groceries, fuel), is also collected on this form from those fishermen who are randomly selected on an annual basis. The set form provides information on an individual fishing set, including the specific latitude and longitude coordinates at which gear was set and hauled back, the amount of gear used, and the number and species of fish and protected species kept, released alive, and discarded dead. Each logbook submission will include only one trip form but may include numerous set forms. The weighout slips, or tally sheets, record the

individual carcass weights of fish purchased by each dealer purchasing landed product.

These weighout slips are typically provided by the dealer to the fisherman.

If no fishing trips occurred during a given month, the No Fishing Reporting Form is required. The No Fishing Reporting Form confirms that vessel owners are not fishing, as opposed to not reporting.

The Southeast Coastal Fisheries Logbook Program (referred to here as the Coastal Fisheries logbook) is also used to collect HMS landings. It is primarily used by vessel owners with commercial shark permits who do not use pelagic longline gear and by vessel owners with permits in the South Atlantic and Gulf of Mexico regions to report fishing activity in the Gulf of Mexico reef fish, South Atlantic snapper/grouper, king and Spanish mackerel, shark, and Atlantic dolphinfish/wahoo fisheries. The Coastal Fisheries logbook is primarily used for bottom longline, gillnet, and vertical line (including bandit) gears, but other gears can also be reported here. The Coastal Fisheries logbook only has a trip report form, and if selected, fishermen have to complete a trip expense section on the trip report form and/or a separate discard form, as described below. Fishermen are also required to indicate if they have not fished for a given month by submitting a No Fishing Reporting Form.

The Coastal Fisheries logbook trip report form includes information specific to the trip, such as vessel name and identification number and dates of the trip. Unlike the reporting forms in the Atlantic HMS logbook, the Coastal Fisheries logbook collects information on the gear, location, and species encountered for an entire trip rather than on every set of the fishing trip. Gear effort information (*e.g.*, number of hooks, lines fished, length of longline) are reported as either totals or the average for an entire trip, rather than the specific number of hooks or length of line for each set. Fishermen also indicate their fishing area as a four digit code, in accordance with a statistical grid map where each species was caught. The grid numbers follow lines of latitude and longitude; the first

two digits in the four digit grid numbers are latitude degrees, and the second two digits are longitude degrees. The “species kept” is also reported in total weight for the entire trip, not in numbers of fish per set like for the Atlantic HMS logbook. Economic information, such as the total cost of groceries and fuel, is collected on this form and is required for each trip from a group of fishermen representing 20 percent of the active fleet randomly selected annually.

Also unlike the Atlantic HMS logbook, the trip form does not record information on released or discarded fish or protected species; however, fishermen can write in these observations if desired. A separate discard logbook form, specific to recording released or discarded fish and protected species, is required for approximately 20 percent of those fishermen, selected at random each year. This discard form is also trip based and does not have specific location data available for each set. Additionally, this logbook form does not provide specific information on individual fish that are discarded dead or alive but instead are collected as a summary for the entire trip. For each species reported on the discard form, fishermen are required to report the following: whether all the fish were discarded dead, most were discarded dead, all were discarded alive, most were discarded alive, some were kept but not sold (*e.g.*, if they used the fish as bait), or the fishermen was unable to determine which category to check. Fishermen may also report “no discards,” indicating that no individuals of any species were discarded during the fishing trip, when submitting a discard logbook form. If selected, this form must be submitted with each trip to remain in reporting compliance.

Both of these logbooks are administered by the NMFS Southeast Fisheries Science Center (SEFSC) and have historically required submission of paper forms. NMFS is currently working on creating an electronic reporting program to replace the paper logbooks. The South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council together with the NMFS Southeast Regional Office

(SERO) are developing a joint FMP amendment addressing electronic reporting for commercial vessels that would maintain the reporting requirements for commercial vessels reporting through the Coastal Fisheries logbook but require electronic submission of reports using available software. For more information on the joint FMP amendment affecting the Coastal Fisheries logbook, see recent council meeting proceedings (<https://safmc.net/> and <https://gulfcouncil.org/>).

Any fisherman with a permit issued by the NMFS Greater Atlantic Regional Fisheries Office (GARFO) is required to submit an electronic Vessel Trip Report (eVTR) to report all fish landed, regardless of species. NMFS published a final rule requiring reporting via eVTR for commercial and for-hire vessels with GARFO permits, which became effective in November 2021 (85 FR 71575, November 10, 2020). Most non-HMS fishermen from Mid-Atlantic states through Maine use eVTRs to report their landings. The gear frequently reported via eVTR includes trawls, dredges, or gillnet gear and these fishermen are primarily fishing for non-HMS such as scallops, squid, herring, groundfish, skates, and spiny dogfish. Vessel owners that are permitted with HMS permits as well as permits issued by GARFO that require eVTR reporting must use the eVTR.

Regarding current timing requirements for submission of logbooks, HMS vessel owners submitting logbooks (§ 635.5(a)(1)) must enter the required information on a day's fishing activities within 48 hours of completing that day's activities or before offloading, whichever is sooner. The vessel owner must submit the logbook form(s) postmarked within 7 days of offloading all HMS. GARFO permit holders must complete eVTRs to the extent possible prior to entering port and submit within 48 hours of offloading fish. SERO permit holders must submit fishing records to the SEFSC postmarked no later than 7 days after the end of each fishing trip (not including Individual Fishing Quota program requirements).

Under this action, NMFS is considering requiring HMS vessel owners reporting in the Atlantic HMS logbook or the Coastal Fisheries logbook to submit those reports electronically. It is expected that, once the electronic logbook system is fully developed and implemented, electronic logbook submission would replace paper submission. Electronic logbook reporting would also allow for the submission of a single electronic report that could be used to satisfy overlapping reporting requirements of vessels holding permits in multiple regions, as part of the NMFS “One Stop Reporting” initiative. NMFS is considering options for implementation of the electronic logbook.

#### *Potential Management Options*

NMFS is considering two options for implementation of electronic Atlantic HMS and Coastal Fisheries logbooks in this section:

- A1. Weighout slip requirement.
- A2. Reporting requirements for smoothhound shark permit holders.

In addition, NMFS is considering options for timing requirements associated with electronic logbook reporting. These options are described in Section D below and consider timing requirements for logbook programs described in Sections B and C as well.

Under Option A1, NMFS is considering how to address the current weighout slip requirement (§ 635.5(a)(2)). Current weighout slip reporting is described above and involves tallies of individual fish unloaded by a vessel; these tallies are recorded on paper and are mailed by the vessel owner or operator with their logbooks to the SEFSC. Currently there is no standardized form for the weighout slips. NMFS is considering how to best collect the information currently received via paper weighout slips as the Agency moves to electronic logbook submission. In order to determine how to address weighout slips, NMFS solicits comments in response to the following questions:



- Which entity (*e.g.*, the dealer, the captain, a crew member) currently creates the weighout slip?
- How are the weighout slips currently created?
- Are the weighout slips created only at the first port of offloading or at every port of offloading?
- Do the weighout slips include fish that are sold to dealers, fish of low quality (*i.e.*, not sold to a dealer), and fish kept for personal consumption?
- Would a standardized format help with creating the weighout slips?
- What would ease the burden (in time and costs) associated with creating the weighout slips (*e.g.*, a form filled out electronically with the logbook, a form that could be filled out and uploaded separate from the logbook)?

Under Option A2, NMFS is considering two sub-options for reporting requirements for smoothhound shark permit holders:

- A2a. Status quo.
- A2b. Including the smoothhound shark permit in the requirement to submit an electronic logbook.

There are currently 158 smoothhound shark permit holders, and 61 percent of those permit holders also have a GARFO permit. Those with GARFO permits are required to submit smoothhound shark data through an eVTR. Some other smoothhound shark permit holders are voluntarily reporting through an eVTR. Under Sub-Option A2a, NMFS would maintain the status quo, which would maintain consistency with current requirements for smoothhound shark permit holders with GARFO permits, described above. However, under this sub-option, NMFS would not receive smoothhound shark catch information from all permit holders, only from those with GARFO permits or those that voluntarily report.

Under Sub-Option A2b, NMFS would include the smoothhound shark permit in the requirement to submit an electronic logbook. This would increase reporting burden for those permit holders, but would also improve catch information received by NMFS. This option would also make smoothhound shark reporting requirements consistent with other commercial shark permits.

## **B. Electronic Commercial Reporting for Atlantic Tunas General and Harpoon Category Permits and Swordfish General Commercial Permit**

### *Background*

Currently, vessel owners with Atlantic Tunas General or Harpoon category permits must call in or electronically report all BFT landings and dead discards to NMFS within 24 hours of completing a trip. These catch reports can be submitted via the HMS Permits website, an HMS Catch Reporting smartphone app, or via a telephone number designated by NMFS. For telephone landing reports, the owner, or the owner's designee, must provide a contact phone number so that a NMFS representative can call the vessel owner, or the owner's designee, for follow up questions and to confirm the reported landing. Regardless of how they are submitted, landing reports submitted to NMFS are not complete unless the vessel owner, or the owner's designee, has received a confirmation number from NMFS or a NMFS representative.

Currently, owners of vessels with Atlantic Tunas General category permits, Atlantic Tunas Harpoon category permits, and/or Swordfish General Commercial permits are only required to maintain and submit paper logbook reports if selected to report in the Atlantic HMS logbook, a requirement that has not been exercised by NMFS for these sectors.

Owners of Atlantic Tunas General category permitted vessels are also required, as a condition of their permit, to cooperate with the Large Pelagics Survey (LPS) if selected for reporting. The LPS collects information regarding the rod and reel fishery directed at

large pelagic species (*e.g.*, tunas, billfishes, swordfish, sharks, wahoo, dolphinfish, greater amberjack) in the offshore waters from Maine through Virginia from June through October. The purpose of the LPS is to collect more precise estimates of fishing effort and catch for large pelagic species that are rarely encountered in the general Marine Recreational Information Program (MRIP) surveys. The LPS includes two independent surveys: the Large Pelagics Telephone Survey (LPTS), a phone survey of randomly selected vessel owners with HMS Angling or Atlantic Tunas General category permits, and the Large Pelagics Intercept Survey (LPIS), a dockside survey of known offshore fishing access sites. These surveys provide effort and average catch-per-trip estimates needed to estimate total catch by species.

Any fisherman with a permit issued by GARFO is required to submit an eVTR to report all fish caught, regardless of species or location of fishing. Most non-HMS commercial fishermen from Mid-Atlantic states through Maine use eVTRs to report their landings. A recent permit overlap analysis identified 391 HMS commercial permit holders (approximately 15 percent), most of them Atlantic Tunas General category permit holders, that possessed at least one GARFO permit requiring them to submit eVTRs. Unlike the Atlantic HMS logbook and the Coastal Fisheries logbook, the eVTR is used by commercial vessel owners and by charter/headboat fishermen with GARFO-issued for-hire permits when fishing recreationally.

GARFO eVTRs include trip-level information, gear information, location by both grid and latitude and longitude coordinates, and, for commercial trips, the weight of each species kept or discarded. There is no indication whether the discards are alive or dead. An entry must be filled out when the fisherman moves to a new area or uses a different gear.

From 2000 through 2015, fishermen reporting via GARFO VTR were required to submit a monthly no-fishing report if they did not fish. These no-fishing reports are no longer required by GARFO.

NMFS is considering implementing a more comprehensive electronic logbook for vessel owners with Atlantic Tunas General category permits, Atlantic Tunas Harpoon category permits, and/or Swordfish General Commercial permits, beyond the current electronic catch reporting. Potential options for a logbook or other catch reporting, and associated requirements, are described below.

#### *Potential Management Options*

NMFS is considering three options for reporting by owners of vessels with Atlantic Tunas General category, Atlantic Tunas Harpoon category, and/or Swordfish General Commercial permits:

- B1. Maintain current reporting requirements.
- B2. Expanding trip reporting requirements related to currently reported species (e.g., BFT) via electronic logbook.
- B3. Expanding species and trip reporting requirements via electronic logbook.

In addition, NMFS is considering options for timing requirements associated with electronic logbook reporting. These options are described in Section D below and consider timing requirements for logbook programs described in Sections A and C as well.

Under Option B1, NMFS would maintain existing electronic reporting for Atlantic Tunas General and Harpoon category vessel owners via the HMS Permits website or the HMS Catch Reporting smartphone app. NMFS would eliminate the option to report via telephone. NMFS would continue to require reporting of BFT landings and dead discards only. Vessel owners would only report on trips where fish are caught. This option would, for the most part, maintain consistency with current requirements for these

vessel owners and would modernize the reporting system and reduce administrative burden on NMFS by removing the telephone option. However, under this option, NMFS would not receive the additional information described under Options B2 and B3.

Under Option B2, NMFS would implement an expanded electronic logbook for vessel owners with Atlantic Tunas General category or Harpoon category permits. Vessel owners with these commercial permits would continue to be required to report BFT landings and dead discards; however, under this option they would do so via electronic logbook required for all trips with effort targeting BFT, regardless of if fish are caught. This sub-option would be a greater reporting burden and a greater administrative burden for NMFS. However, reporting all trips would have the advantage of providing the necessary information to determine catch-per-unit-effort (CPUE) in the BFT fishery. As noted above, vessel owners that hold both HMS and GARFO permits are already required to report on all trips. This sub-option could include reporting trips taken by an Atlantic Tunas General category permitted vessel when participating in a tournament, while indicating in the logbook which trips were associated with a tournament.

Under Option B3, NMFS would implement an expanded electronic logbook for vessel owners with Atlantic Tunas General category, Harpoon category, and/or Swordfish General Commercial permits. This logbook requirement would potentially expand the data elements collected, similar to the Atlantic HMS logbook, and the species and trips that would need to be reported, as described below. NMFS is considering three sub-options for which species and trips would be reported:

- B3a. Require reporting of all HMS caught.
- B3b. Require reporting of all species caught, including non-HMS.
- B3c. Require reporting for all trips, regardless of if fish are caught.

Sub-Option B3a would require reporting for all HMS, including discards, but would not include non-HMS to be reported by HMS-only permit holders. This sub-option

would increase the reporting burden and the administrative burden for NMFS. However, this sub-option would provide complete trip data for HMS science and management purposes.

Sub-Option B3b would require reporting for all species, including non-HMS, and including discards. This sub-option would be the greatest reporting burden and the greatest administrative burden for NMFS. However, this sub-option would provide the most complete data for science and management purposes across regions. As noted above, vessel owners with Atlantic Tunas General category, Atlantic Tunas Harpoon category, and/or Swordfish General Commercial permits that also hold GARFO permits are already required to report all species caught.

Sub-Option B3c would require reporting for all trips with effort, regardless of if fish are caught. This sub-option could apply with additional species being reported under either Sub-Option B3a or B3b. This sub-option would be a greater reporting burden and a greater administrative burden for NMFS. However, reporting all trips would have the advantage of providing the necessary information to determine CPUE in these fisheries. As noted above, vessel owners that hold both HMS and GARFO permits are already required to report on all trips. This sub-option could include reporting trips taken by an Atlantic Tunas General category or Swordfish General Commercial permitted vessel when participating in a tournament, while indicating in the logbook which trips were associated with a tournament.

Overall, implementing a logbook for vessel owners with Atlantic Tunas General, Atlantic Tunas Harpoon category, and/or Swordfish General Commercial permits under Option B2 or B3 would expand reporting requirements for these vessel owners, compared to Option B1. Options B2 and B3 would also increase the administrative burden for NMFS to develop and implement an expanded logbook program. However, Option B3 in particular would have the benefit of providing more detailed effort and catch data than

what is currently collected by the LPS. Following a period of overlapping data collection to facilitate calibration of the catch data time series, this logbook could allow owners of Atlantic Tunas General category permitted vessels to be exempted from participation in the LPTS, and minimize their participation in the dockside LPIS to a simple validation survey. The latter may not even be needed for the General category as their commercial catch could also be validated with dealer landings data. In addition, Options B2 and B3 would allow NMFS to report more detailed effort and catch data to the International Commission for the Conservation of Atlantic Tunas (ICCAT), which could potentially contribute to improved stock assessments and management strategy evaluation.

### **C. HMS Charter/Headboat Electronic Logbook**

#### *Background*

Currently, owners of HMS Charter/Headboat permitted vessels must call in or electronically report all BFT landings and dead discards, all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, and Atlantic sailfish, and all non-tournament and non-commercial landings of North Atlantic swordfish to NMFS within 24 hours of completing a trip. These catch reports can be submitted via the HMS Permits website, an HMS Catch Reporting smartphone app, or via a telephone number designated by NMFS. For telephone landing reports, the owner, or the owner's designee, must provide a contact phone number so that a NMFS representative can call the vessel owner, or the owner's designee, for follow up questions and to confirm the reported landings. Regardless of how catch reports are submitted, landing reports submitted to NMFS are not complete unless the vessel owner, or the owner's designee, has received a confirmation number from NMFS or a NMFS representative.

Currently, owners of HMS Charter/Headboat permitted vessels are only required to maintain and submit paper logbook reports if selected to report in the Atlantic HMS logbook, a requirement that has not been exercised by NMFS for this sector. Owners of

HMS Charter/Headboat permitted vessels are also required to report cost and earnings information if selected. In 2013, NMFS executed a logbook study to collect cost and earnings data on charter boat and headboat trips targeting Atlantic HMS.

Owners of HMS Charter/Headboat permitted vessels are also required, as a condition of their permit, to cooperate with LPS if selected for reporting. A description of the LPS can be found in the background for Section B on the Atlantic Tunas General category. However, unlike vessel owners with Atlantic Tunas General category or HMS Angling permits, owners of HMS Charter/Headboat permitted vessels report their effort data to the For-Hire Survey (FHS), rather than the LPS, with an extra series of questions called “the LPS Add-on” asked of vessels that report fishing for HMS. The FHS is a telephone survey of known charter boat and headboat vessel owners used to collect data on the number of saltwater fishing trips taken by recreational anglers on for-hire vessels. To minimize recall bias, the FHS asks vessel owners to report vessel fishing activity for one-week periods, including the number of anglers fishing per trip, hours spent fishing, areas fished, and species targeted.

Mandatory electronic logbook reporting requirements have been established for all vessels possessing federal for-hire or party/charter permits issued by GARFO or SERO. Vessel trip reports are required by all vessels in Mid-Atlantic fisheries possessing their regional for-hire permits, since March 2018. Similar logbook reporting requirements were implemented in South Atlantic and Gulf of Mexico for-hire fisheries in January 2021, and in New England for-hire fisheries in November 2021. In addition, the Southeast Regional Headboat Survey began electronic submission in 2013. On February 23, 2023, the United States Court of Appeals for the Fifth Circuit set aside the final rule implementing the Southeast For-Hire Integrated Electronic Reporting Program in the Gulf of Mexico. This means the for-hire program in the Gulf of Mexico is currently not in effect; all other programs remain in effect. NMFS is reviewing the Court ruling to



determine overall impacts. A permit overlap analysis revealed that approximately half of all HMS Charter/Headboat vessels held at least one federal permit for New England, Mid-Atlantic, South Atlantic, or Gulf of Mexico fisheries that require electronic logbook reporting.

Logbook reporting requirements vary from weekly for South Atlantic permit holders, to within 48 hours of trip completion for GARFO permit holders. In each case, permit holders are required to submit reports for each trip that include details on fishing effort, catch, including fish retained and released for all species, and economic information. Requirements regarding the submission of no-fishing reports vary across council regions. Currently, GARFO permit holders are not required to submit no-fishing reports. South Atlantic permit holders are required to report weekly, and must submit a no-fishing report on weeks when no for-hire fishing activity takes place.

For-hire vessels have the option to choose between multiple electronic reporting platforms, including GARFO's eVTR platforms (*e.g.*, Fish Online), the Standard Atlantic Fisheries Information System (SAFIS) electronic trip-level reporting (eTRIPS) Mobile and Online platforms, and several platforms offered by private companies, although not all reporting platforms are approved for all regional permits. Currently, data elements necessary to meet HMS catch reporting requirements for recreational landings of BFT, billfish, and swordfish have been integrated into eTRIPS Mobile and eTRIPS Online software applications. The eTRIPS Mobile platform allows for "One Stop Reporting" capabilities.

In an effort to streamline reporting requirements across regions and the HMS Management Division, and because approximately half of all vessel owners with HMS Charter/Headboat permits hold multiple regional for-hire permits, NMFS is considering expanding HMS charter/headboat reporting to require vessel owners to submit electronic logbooks via a NMFS-approved system. The HMS charter/headboat electronic logbook

would be part of the “One Stop Reporting” initiative by allowing one report to meet duplicative reporting requirements of vessels holding permits in multiple regions. NMFS is considering several management measures, described below, to modify reporting requirements for federally permitted for-hire vessels (charter vessels and headboats) when fishing with an HMS Charter/Headboat permit.

#### *Potential Management Options*

NMFS is considering four options for implementation of an HMS Charter/Headboat electronic logbook:

- C1. Species reporting requirements.
- C2. No-fishing reports.
- C3. Costs and earnings information.
- C4. Geospatial information.

In addition, NMFS is considering options for timing requirements associated with electronic logbook reporting. These options are described in Section D below and consider timing requirements for logbook programs described in Sections A and B as well.

Under Option C1, NMFS is considering three sub-options regarding what species must be reported on via electronic fishing reports for for-hire trips:

- C1a. Status quo.
- C1b. Requirement to report all HMS.
- C1c. Requirement to report all species.

Sub-Option C1a would require the owner of an HMS Charter/Headboat permitted vessel to report only BFT landings and dead discards and swordfish and billfish landings on all trips regardless of where the fish were caught. Sub-Option C1a would maintain the status quo for what species must be reported by HMS Charter/Headboat permitted vessel owners. However, limiting reporting to only BFT, swordfish, and billfish would allow

some other species (*e.g.*, other tunas, sharks) to be caught but not reported. This limited reporting could reduce future management effectiveness, as events such as HMS range expansion, shark depredation, or developing fisheries for HMS, would be overlooked in the data system. This would hinder NMFS' ability to modify managed species in response to environmental, social, or economic changes that may occur in the future. In addition, with the adoption of electronic logbook reporting for all species caught by federal for-hire fisheries in New England, the Mid-Atlantic, and South Atlantic, the failure to expand HMS reporting requirements could leave NMFS reliant on lower quality and less timely data for management of the HMS for-hire fishery compared to those other fisheries.

Sub-Option C1b would require the owner of an HMS Charter/Headboat permitted vessel to report only HMS federally managed by the HMS Management Division (*i.e.*, all tunas, sharks, swordfish, and billfish) landed and discarded on all trips regardless of where the fish were caught. Sub-Option C1b would result in more comprehensive reporting of species landed and discarded in HMS fisheries compared to the status quo. However, limiting reporting to HMS would allow some species to be caught but not reported. The data gap this would create could undermine efforts by NMFS to fully understand for-hire fishing operations, and NMFS' ability to assess the impacts of potential management actions on the HMS for-hire fleet. This could reduce future management effectiveness, as events such as range expansion by, or developing fisheries for species not managed by the HMS Management Division but of interest to the Agency would be overlooked. This would hinder the HMS Management Division's ability to modify species management in response to environmental, social, or economic changes that may occur in the future.

Sub-Option C1c would require the owner of an HMS Charter/Headboat permitted vessel to report all fish landed and discarded on all trips regardless of where the fish were

caught. Sub-Option C1c is consistent with the electronic reporting requirements for for-hire fishing vessels with Federal permits in New England, the Mid-Atlantic, and South Atlantic. Mandatory reporting of all fish landed and discarded on for-hire trips would remove the need to develop survey-based estimates of catch and effort, and as the most inclusive sub-option, this sub-option would best prevent any gaps in catch reporting. Additionally, effort data reported via an electronic logbook could be used to substitute for effort data that HMS Charter/Headboat vessel owners would otherwise be required to report to the FHS. NMFS is already using eVTR data for this purpose to exempt for-hire vessels with council permits from reporting to the FHS to minimize redundant reporting burden. HMS Charter/Headboat vessel operators would need to participate in dockside surveys, such as through the LPIS or through the Access Point Angler Intercept Survey (APAIS), which could serve as a validation check for logbook reported data. A proposal has already been put forward by the Atlantic Coast Cooperative Statistics Program for MRIP certification to use the APAIS as a validation survey of for-hire logbook data collected in the Atlantic. Reporting all fish landed and discarded would increase reporting burden for charter/headboat owners as well as administrative burden for NMFS.

Under Option C2, NMFS is considering two sub-options to modify the requirement to submit no-fishing reports for for-hire trips:

- C2a. Status quo.
- C2b. Requirement to submit no-fishing reports.

Sub-Option C2a (status quo) would not require the owner of an HMS Charter/Headboat permitted vessel to submit no-fishing reports if no fishing activity occurred. Sub-Option C2a is consistent with the electronic reporting requirements for for-hire fishing vessels with Federal permits for species managed by GARFO. Not requiring no-fishing reports avoids further complicating the regulations and increasing the reporting burden for charter/headboat owners. However, no-fishing reports are required

in the commercial Atlantic HMS logbook, and excluding charter/headboat owners from this requirement would result in inequitable reporting burden between the fleets. Furthermore, no-fishing reports are a significant aid for facilitating regular compliance checks, as it is difficult to ascertain if a lack of reports over a given time period was due to non-compliance or the simple absence of fishing effort.

Sub-Option C2b would require owners of an HMS Charter/Headboat permitted vessel to submit no-fishing reports if no fishing activity occurred. These reports could be required on a weekly basis or on a monthly basis, similar to the commercial Atlantic HMS logbook. Sub-Option C2b is consistent with the electronic reporting requirements for for-hire fishing vessels with Federal permits in the South Atlantic, and submission of no-fishing reports improves data validation and increases accountability. However, this sub-option would increase the reporting burden for charter/headboat owners.

Under Option C3, NMFS is considering three sub-options for reporting cost and earnings information on for-hire trips:

- C3a. Mandatory submission of cost and earnings information for each trip.
- C3b. Mandatory submission of cost and earnings information if a vessel is selected for reporting.
- C3c. Collection of cost and earnings information separately via surveys.

Sub-Option C3a would require the owner of an HMS Charter/Headboat permitted vessel to submit costs and earnings information for all trips. Sub-Option C3a is consistent with the electronic reporting requirements for for-hire fishing vessels with Federal permits in the South Atlantic. Detailed economic data, collected in real time, will enhance NMFS ability to understand how the federally permitted for-hire industry is impacted when regulatory change is considered. These data will be used in cost-benefit and economic impact analyses for actions and amendments that propose regulatory changes. Additionally, improved characterization of the economic and social impacts of for-hire

fishing will allow NMFS to better monitor the economic health of the industry over time and facilitate economic recovery from fishery disasters. However, some of this data may be collected more efficiently by a sample of the fleet (*e.g.*, fuel price), and too many additional mandatory fields on electronic fishing reports may reduce reporting compliance and stakeholder support. Furthermore, charter/headboat owners may not have some costs and earnings information (*e.g.*, if they sell any catch from a commercial trip) available prior to landing.

Sub-Option C3b would require the owner of an HMS Charter/Headboat permitted vessel to submit costs and earnings information for trips when the charter vessel or headboat is selected for cost-earnings reporting. Sub-Option C3b is similar to a requirement in the Gulf of Mexico, where a subset of for-hire vessels that generally meet the criteria of a headboat are selected by the SEFSC to complete the Southeast Regional Headboat Survey. It is also consistent with the current cost-earnings reporting requirements for those vessels that report in the commercial Atlantic HMS logbook. However, collecting cost-earnings data from only a portion of permitted vessels would not provide as complete data as under Sub-Option C3a.

Sub-Option C3c would require the owner of an HMS Charter/Headboat permitted vessel to submit costs and earnings information separately via an annual survey. Because the for-hire industry is relatively consistent in trip duration, fishing location, and target species, a survey that collects data on annual expenses and average trip costs and earnings could be sufficient to characterize the economic impacts of for-hire fishing while minimizing duplicative reporting on charter/headboat owners. However, charter/headboat owners would likely need to set up an additional account to electronically report costs and earnings information through an approved NMFS survey.

Under Option C4, NMFS is considering two sub-options for the collection of geospatial information on for-hire trips:

- C4a. Status quo.
- C4b. Collection of geospatial information.

Sub-Option C4a (status quo) would not require the owner of an HMS Charter/Headboat permitted vessel to submit geospatial information, such as latitude and longitude associated with fishing effort or fishing areas. Sub-Option C4a maintains the status quo for not requiring the collection of geospatial information on for-hire trips. However, no geospatial information would be collected on for-hire trips. The collection of geospatial information would facilitate numerous analyses regarding the distribution of the HMS for-hire fishery. Such information could help inform stock assessments, economic analyses, impact assessments for offshore developments such as offshore wind and aquaculture, impacts of marine monuments or other changes in spatial management, *etc.*

Sub-Option C4b would require the owner of an HMS Charter/Headboat permitted vessel to report geospatial location information on primary fishing location via the electronic reporting program. The collection of geospatial information, such as latitude and longitude associated with fishing effort or fishing areas, would facilitate numerous analyses regarding the distribution of the HMS for-hire fishery. Such information could help inform stock assessments, economic analyses, impact assessments for offshore developments such as offshore wind and aquaculture, impacts of marine monuments or other changes in spatial management, *etc.* However, the collection of geospatial information would place added burden on charter/headboat owners.

#### **D. Timing Requirements for Submission of Electronic Logbooks**

##### *Background*

Current reporting requirements for HMS vessel owners reporting in the Atlantic HMS logbook or Coastal Fisheries logbook, as well as current requirements for SERO and GARFO commercial permit holders, are described in Section A. Current reporting

requirements for owners of vessels with Atlantic Tunas General category permits, Atlantic Tunas Harpoon category permits, and/or Swordfish General Commercial permits are described in Section B. Current reporting requirements for owners of HMS Charter/Headboat permitted vessels, as well as for SERO and GARFO for-hire permit holders, are described in Section C.

#### *Potential Management Options*

NMFS is considering a range of timing requirements for electronic logbook submission, taking into account current requirements for vessel owners with HMS, GARFO, and/or SERO permits under different reporting programs. In the situation where HMS regulations would not align with GARFO or SERO regulations, HMS vessel owners with GARFO or SERO permits would likely need to follow the most stringent requirements.

For HMS vessel owners, options for potential timing requirements for logbook submission are:

- D1. Submit prior to landing.
- D2. Submit within 24 hours of offloading/completing a trip.
- D3. Submit within 48 hours of offloading/completing a trip.
- D4. Complete reports to the extent possible prior to landing and submit within 24 hours of offloading/completing a trip.
- D5. Complete reports to the extent possible prior to landing and submit within 48 hours of offloading/completing a trip.
- D6. Submit within 7 days of offloading (commercial) or once per week (charter/headboat).

#### *Timing Considerations Applicable to all Logbook Programs*

Requiring logbook submission on a shorter timeframe (*i.e.*, Option D1) is the most efficient for NMFS to receive and analyze data. Requiring logbook submission on a



shorter timeframe could improve data quality and accuracy by reducing recall bias, improving stakeholder confidence, and reducing uncertainty associated with these data when used in science or management applications. It could also expedite data availability for fisheries management purposes. However, some data elements may not be available prior to landing. In addition, those experiencing problems with their devices and/or otherwise unable to submit an electronic fishing report would have little opportunity to troubleshoot solutions prior to landing.

Requiring logbook submission on a longer timeframe (*i.e.*, Option D6) gives more flexibility to vessel owners to complete reports when they have the opportunity. However, allowing a longer timeframe for logbook submission may increase recall error, decrease the accuracy of information, delay the availability of data for management purposes, and may be less efficient for NMFS data processing.

Under Options D4 and D5, a hybrid requirement of completing some fields prior to landing and some at a later time could increase the accuracy of data while also allowing flexibility for data elements that may not be available prior to landing.

Options requiring all or some fields to be completed prior to landing (Options D1, D4, D5) would allow the ability for catch to be verified by an enforcement officer or port agent when the vessel returns to the dock and offloads fish.

#### *Timing Considerations Specific to the Atlantic HMS and Coastal Fisheries Logbooks*

Option D6, requiring logbook submission within 7 days of offloading, would maintain consistency with current HMS regulations and would also be consistent with SERO requirements described in Section A. Options D3 and D5, requiring logbook submission within 48 hours of offloading, would be consistent with GARFO requirements described in Section A. Options D1 through D5, requiring submission sooner than within 7 days of offloading, would make HMS requirements stricter than SERO requirements (*e.g.*, the Coastal Fisheries logbook). Options D1, D2, and D4,

requiring submission sooner than within 48 hours of offloading, would make HMS requirements stricter than GARFO requirements.

*Timing Considerations Specific to Atlantic Tunas General and Harpoon Category Permits and Swordfish General Commercial Permit*

Option D2 would maintain the requirement to report within 24 hours of completing a trip, which would maintain consistency with current requirements for vessel owners with Atlantic Tunas General or Harpoon category permits. Options requiring all or some fields to be completed prior to landing (Options D1, D4, D5) would be a stricter requirement for these vessel owners compared to the status quo.

*Timing Considerations Specific to an HMS Charter/Headboat Electronic Logbook*

Option D1, requiring submission prior to landing, would have been consistent with the original electronic reporting requirements for Gulf of Mexico federal permitted for-hire vessels. This was a requirement in the final rule recently set aside by the United States Court of Appeals for the Fifth Circuit referenced above and is no longer in effect. NMFS is including this option as an example of the shortest timeframe for submitting logbooks and believes that a requirement to submit prior to landing can be included in a future action consistent with Fifth Circuit's decision. This option offers charter vessel/headboat owners the least flexibility in how and when they prepare and submit their fishing reports. This requirement could also be especially burdensome during peak season when the number of trips taken, the number of passengers carried, and catch are greatest.

Option D2 would maintain the requirement to report within 24 hours of completing a trip, which would maintain consistency with current requirements for vessel owners with HMS Charter/Headboat permits.

Option D3, requiring submission within 48 hours of completing a trip, would be consistent with the electronic reporting requirements for for-hire vessels with GARFO

Federal permits. Option D5 would also meet the requirements for GARFO for-hire permits, but would be stricter by requiring some fields to be completed prior to landing.

Option D6, requiring logbook submission once per week on a set day, would be consistent with the electronic reporting requirements for South Atlantic federally permitted for-hire vessels. Compared to the other options, weekly reporting has the most flexibility in when charter/headboat owners prepare and submit their fishing reports. This could be especially beneficial during peak season when the number of trips taken, the number of passengers carried, and catch are greatest.

Options D1 through D5, requiring submission more frequently than once per week, would make HMS requirements stricter than requirements for South Atlantic federally permitted for-hire vessels. Options D1, D2, and D4, requiring submission sooner than within 48 hours of offloading, would make HMS requirements stricter than GARFO requirements, while weekly reporting under Option D6 would not meet GARFO requirements. Many for-hire vessels possess HMS Charter/Headboat permits in case of incidental HMS catch, and may be tempted to drop their HMS permits to avoid the extra reporting burden under options where HMS reporting requirements would be stricter than council reporting requirements. This could have negative effects on HMS management efforts in these fisheries.

## **E. HMS Angling Permit Reporting Requirements**

### *Background*

Currently, HMS Angling permitted vessels must report all BFT landings and dead discards, as well as all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, Atlantic sailfish, and North Atlantic swordfish to NMFS within 24 hours of completing a trip. These catch reports can be submitted via the HMS Permits website, an HMS Catch Reporting smartphone app, or via a telephone number designated by NMFS. For telephone landing reports, the owner, or the owner's designee,

must provide a contact phone number so that a NMFS representative can call the vessel owner, or the owner's designee, for follow up questions and to confirm the reported landing. Regardless of how catch reports are submitted, landing reports submitted to NMFS are not complete unless the vessel owner, or the owner's designee, has received a confirmation number from NMFS or a NMFS representative.

NMFS is considering several management measures, described below, to modify species-specific reporting requirements for owners of HMS Angling permitted vessels.

#### *Potential Management Options*

NMFS is considering five options regarding what species must be reported by recreational fishermen, in addition to existing requirements to report BFT, billfish, and swordfish:

- E1. Status quo.
- E2. Requirement to report pelagic sharks.
- E3. Requirement to report all sharks.
- E4. Requirement to report bigeye, albacore, yellowfin, and skipjack (BAYS) tunas.
- E5. Requirement to report all HMS including discards.

For Options E2 through E4, the status quo requirement to report BFT landings and dead discards, billfish landings, and swordfish landings would remain in place. Under Options E2 through E4, there would be an option to voluntarily report all HMS landings in addition to those required.

Option E1 (status quo) would require the owner of an HMS Angling permitted vessel to report all BFT, billfish, and swordfish landings and BFT dead discards.

Option E2 would require the owner of an HMS Angling permitted vessel to report all pelagic shark (*i.e.*, blue, porbeagle, shortfin mako, and thresher shark) landings.

Option E2 would result in more comprehensive reporting of species landed in the HMS

recreational sector compared to the status quo, including reporting ICCAT. In the event ICCAT reauthorizes the retention of shortfin mako sharks, it is likely the fishery would have to be managed under a strict quota that would necessitate catch reporting to enable timely monitoring. Although, reporting pelagic shark landings in addition to BFT, swordfish, and billfish could increase the reporting burden for recreational HMS vessel owners, limiting reporting to only BFT, swordfish, billfish, and pelagic sharks would allow some species to be caught but not reported (*e.g.*, other shark species). This could impact NMFS' ability to monitor recreational sector quotas and implement effective and responsive fisheries management measures. In Amendment 14 to the 2006 Consolidated Atlantic HMS FMP (Amendment 14), NMFS established a framework under which the Agency will actively manage recreational sector quotas for sharks (88 FR 4157, January 24, 2023). In addition, this option would be an additional administrative burden to the Agency compared to the status quo.

Option E3 would require the owner of an HMS Angling permitted vessel to report all shark landings. Option E3 would result in more comprehensive reporting of shark species landed in the HMS recreational sector compared to Options E1 and E2. Most coastal shark species are rare event species in the various catch and effort surveys (*e.g.*, MRIP) used to monitor the recreational catch of these species, resulting in estimates of catch with extremely low precision (*i.e.*, high PSE values greater than 50) which increases uncertainty for use in management and stock assessments. Requiring reporting of these species would provide much more accurate accounting of their landings, and facilitate better management of the recreational fishery. However, reporting all shark landings in addition to BFT, swordfish, and billfish could increase the reporting burden for recreational HMS vessel owners. This option would also be an increased administrative burden for the Agency compared to the status quo and Option E2. Additionally, reporting only BFT, swordfish, billfish, and sharks would allow some

species to be caught but not reported (*e.g.*, BAYS tunas). This could impact NMFS' ability to implement effective and responsive fisheries management measures.

Furthermore, the vast majority of recreational shark interactions are with state anglers fishing for sharks in state waters where an HMS Angling permit is not required. Since this reporting requirement would be tied to possession of an HMS Angling permit, it would not apply to most anglers actually catching coastal shark species. As such, this option would not capture all recreational shark landings in state waters.

Option E4 would require the owner of an HMS Angling permitted vessel to report all BAYS tunas landings. Option E4 would result in more comprehensive reporting of species landed in the HMS recreational sector compared to the status quo. However, reporting BAYS tunas landings in addition to BFT, swordfish, and billfish would increase the reporting burden for recreational HMS vessel owners. Additionally, reporting only BFT, swordfish, billfish, and BAYS tunas would allow some species to be caught but not reported (*e.g.*, shark species). This could impact NMFS' ability to monitor recreational sector quotas under Amendment 14, as described above. As mentioned above, most coastal shark species are rare event species in the various catch and effort surveys (*e.g.*, MRIP) used to monitor the recreational catch of these species, resulting in estimates of catch with extremely low precision (*i.e.*, high PSE values greater than 50) which increases uncertainty for use in management and stock assessments. Under this option, NMFS would not receive accounting information for shark landings compared to Option E3, and that accounting could facilitate better management of the recreational fishery. In addition, this option would be an additional administrative burden to the Agency compared to the status quo.

Option E5 would require the owner of an HMS Angling permitted vessel to report all HMS catch (landings and discards). Option E5 would result in more comprehensive reporting of species landed and discarded in the HMS recreational sector compared to the

other options, and this is the only option that would capture recreational catch-and-release and incidental catch data on HMS. Additionally, this option would increase NMFS' ability to monitor recreational sector quotas for sharks and implement effective and responsive fisheries management measures, as described in the above options. However, reporting all HMS landings and discards would significantly increase the reporting burden for owners of HMS Angling permitted vessels and the administrative burden on NMFS, especially considering the large number of vessels in this sector.

## **F. Measures to Improve Reporting Compliance for Vessel Owners With HMS Open Access Permits**

### *Background*

NMFS is considering ways to improve reporting compliance by vessel owners with HMS open access permits. Despite the requirement to self-report, NMFS does not receive complete catch reporting of relevant species from vessel owners with HMS Angling, HMS Charter/Headboat, Atlantic Tunas General category, or Atlantic Tunas Harpoon category permits. Non-compliance with reporting requirements presents a challenge for NMFS to track landings in real-time and to analyze trends. Potential new logbook reporting requirements discussed in this action may improve reporting rates. Commercial landings data are also received from dealer reports. Apart from those considerations, NMFS is considering providing reporting incentives to encourage reporting as well as using permit blocks to respond to reporting non-compliance.

A recent survey of recreational anglers in the BFT fishery, conducted by the American Saltwater Guides Association, Virginia Institute of Marine Science, and The Nature Conservancy, asked anglers about the effectiveness of different strategies for improving reporting (see Goldsmith 2022, on the EM4.Fish website). Incentives were the highest ranked strategies, perceived by anglers as very or extremely effective. The incentives described in the survey were entering anglers who self-report into a low odds,

high-value lottery for an item such as a fishing reel, or sending small items such as a hat or t-shirt to those who self-reported. Other examples of incentives are described below.

In order to renew an HMS limited access permit, the vessel owner must have complied with all logbook requirements. The same reporting compliance check is not currently done when renewing open access permits. However, submitting all required reports is currently a requirement in order to renew an HMS permit (see § 635.4(m)). NMFS is considering only issuing permit renewals to vessel owners renewing open access permits who have complied with all reporting requirements.

### *Potential Management Options*

NMFS is considering two options to improve reporting compliance for vessel owners with HMS open access permits:

F1. Reporting incentives.

F2. Permit blocks for non-reporting.

Under Option F1, NMFS is soliciting public input on the use of and options for reporting incentives. Some examples of incentives are listed below, but other examples could be considered as well. The below examples could involve a threshold reporting level or be reserved for those who demonstrate exemplary reporting.

- Sending small items such as a hat or t-shirt to those who self-reported.
- Provide certificates to those who self-reported.
- Reward top reporters with recognition by NMFS or NOAA.
- Develop a reporting leaderboard that fishermen could join into and receive badges or in-app achievements.

This management option could encourage vessel owners to report all necessary information to receive incentives. This option could potentially increase reporting rates and therefore improve the data received by NMFS, which could in turn increase NMFS' ability to monitor sector quotas (*e.g.*, BFT sectors) and implement effective and



responsive fisheries management measures. This option would also be responsive to the BFT angler survey results showing that anglers believe incentives would be an effective method to increase reporting rates. However, making these kinds of incentives available exclusively for vessel owners with open access permits could be seen by vessel owners with limited access permits as unfair. There could also be perceived disparity among those who receive prizes or recognition and those who do not.

Under Option F2, NMFS is also considering the use of permit blocks to deny permit renewals for vessel owners with open access permits who have not submitted all required catch reports. This option could increase the likelihood of vessel owners submitting all information required in a timely manner to prevent having a permit block. As with Option F1, this option could increase reporting rates and therefore improve the data received by NMFS, which could in turn increase NMFS' ability to accurately monitor sector quotas and implement effective and responsive fisheries management measures. This option could also increase perceived fairness between vessel owners with limited access and open access permits. However, this option would substantially increase the administrative burden on NMFS to track all reporting related to permit renewal requests due to the large number of permits, among other factors. This option could also increase Agency costs to create this capability in the permit system and administer the permit program, which could in turn increase the cost of permits. This option also has the potential to cause delays in processing permit renewals.

## **G. Individual Fish Reports in eDealer Program and Technical Change in BFT Reporting Requirements**

### *Background*

Landing weight and price for most HMS are collected from dealer reports submitted electronically from dealers residing in Maine through Texas, including the U.S. Caribbean. All HMS landings submitted on those dealer reports are then consolidated in

an internal database referred to as “eDealer.” For Atlantic BFT, landings weight and revenue are collected through SAFIS developed and maintained by the Atlantic Coast Cooperative Statistics Program. All HMS dealer reports are submitted on an individual trip basis, with most dealers providing information on the weight and price of purchased HMS from U.S. fishing vessels. In some cases, mostly for ICCAT-managed species such as swordfish and tunas, dealers may report the weight and price information for each individual fish instead of an aggregate weight for a given species. In the case of BFT, dealers are already required to report individual fish weights through SAFIS.

As a quality control measure, NMFS regularly cross-validates the weight of fish and the purchase dates provided in dealer reports with the logbook trip information, including the weighout slips, to ensure all fish are accounted for in these fisheries. When discrepancies are found between the dealer reports, logbook, and weighout slips, NMFS works to ensure the fish are correctly entered in the appropriate dealer reporting system and in the logbook. Similarly for BFT, information in the dealer landings dataset is compared to the open-access vessel catch report data set for quality assurance.

Individual weight information for certain HMS stocks are important for future stock assessments to ensure NMFS receives the most accurate data to manage these stocks. NMFS is exploring changes that would result in more comprehensive individual weight and trip revenue information, particularly for species reported to ICCAT, across a wider range of gear types and regions than those currently reported on dealer reports. Because non-BFT dealer reports mostly provide an aggregate species weight instead of an individual weight for each fish, this type of inconsistency in reporting hinders the ability of the Agency to estimate trip revenue for certain landings, and necessary ICCAT-related reporting of individual fish weight. As such, NMFS is exploring ways to implement mandatory dealer reporting of individual carcass weight information for certain HMS.

### *Potential Management Options*

NMFS is considering three options for federal HMS dealer reporting:

- G1. Status quo.
- G2. Require reporting of individual fish on dealer reports.
- G3. Removing the requirement to submit a bi-weekly report for BFT.

NMFS is considering implementing mandatory dealer reporting of individual non-BFT HMS on dealer reports. As described above, the electronic dealer reporting systems allow for the flexibility to report weight and price information at the species or individual fish level. In addition, there are currently some dealers already reporting individual carcass weights.

Under Option G1, NMFS would maintain the current reporting requirements for dealers as described above. This option would maintain the status quo for dealers with no additional effort and reporting requirements. However, this option causes some inconsistencies in how dealers submit data, with some weight values reported at the aggregate level and others reported at the individual fish level. Additionally, NMFS would not get individual carcass weights, which would be important for some stock assessments, trip revenue estimation, and ICCAT reporting.

Under Option G2, NMFS would require reporting of individual fish on federal dealer reports. Under this option, NMFS is considering two sub-options regarding which species could be reported individually on dealer reports:

- G2a. Require all HMS to be reported individually on federal dealer reports.
- G2b. Require swordfish, BAYS tunas, and pelagic shark species to be reported individually on federal dealer reports.

Under Sub-Option G2a, NMFS would require all HMS to be reported individually on federal dealer reports. This sub-option would allow NMFS to gather individual weight for every HMS landed commercially with a federal dealer and to get important weight

information on all HMS stocks along with consistency in reporting across dealers and species. This sub-option would cause an increase in the reporting time and burden on dealers on weighing and reporting all the HMS catch individually. There would be an increase in administrative burden for quality assurance and control of all associated databases that receive HMS dealer data. Under Sub-Option G2a, there would need to be an increase in outreach to dealers and associated partners that handle federal dealer data regarding the changes in reporting requirements.

Under Sub-Option G2b, NMFS would only require swordfish, BAYS tunas, and pelagic shark species to be reported individually on federal dealer reports. For pelagic sharks, commercial fishermen are currently only allowed to retain blue, common thresher, and porbeagle sharks. NMFS recently published a proposed rule that considers adding oceanic whitetip sharks to the prohibited sharks complex (88 FR 17171, March 22, 2023). No other HMS would be required to be reported as individual carcass weights on federal dealer reports. This sub-option would allow NMFS to get individual carcass weights for species reported to ICCAT. This sub-option would potentially put less burden on dealers and NMFS, and associated partners that handle HMS dealer data compared to Sub-Option G2a, but this would still be a significant change for dealers and would dramatically change how they report BAYS, swordfish, and some pelagic sharks. However, this sub-option could be more of a burden for those dealers compared to Option G1. In addition, this sub-option would not require individual weight data on other shark species, which could be important for future stock assessments.

In addition to the management options related to eDealer, NMFS is considering a technical change to BFT dealer reporting to remove a redundancy in the requirements. Currently, each dealer with a valid Atlantic tunas dealer permit under § 635.4 must submit a complete bi-weekly report on forms available from NMFS for BFT received from U.S. vessels (§ 635.5(b)(2)(i)(B)). For BFT received from U.S. vessels on the 1<sup>st</sup>

through the 15<sup>th</sup> of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, not later than the 25<sup>th</sup> of that month. Reports of BFT received on the 16<sup>th</sup> through the last day of each month must be received by NMFS not later than the 10<sup>th</sup> of the following month. Under Option G3, NMFS is considering removing the requirement to submit the bi-weekly report as the information submitted via bi-weekly report is already collected under other BFT reporting requirements at § 635.5(b)(2)(i)(A). This technical change would reduce the reporting burden for Atlantic tunas dealers and administrative burden on NMFS.

## **H. Electronic Reporting for the HMS EFP Program**

### *Background*

Under the HMS EFP Program, NMFS annually issues approximately 40 EFPs, scientific research permits (SRPs), display permits, and letters of acknowledgement under the authority of the Magnuson-Stevens Act and/or Atlantic Tunas Convention Act. EFPs, SRPs, and display permits may be required in situations where necessary research activities would normally be prohibited by regulations. This could include: possession of certain prohibited shark and billfish species; possession of billfishes onboard commercial fishing vessels; and fishing during closures in the BFT, swordfish, and shark commercial fisheries. EFPs, SRPs, and display permits can authorize collection of tunas, swordfish, billfishes, and sharks from Federal waters in the Atlantic Ocean and Gulf of Mexico for the purposes of scientific data collection and public display.

Written reports on fishing activities, and disposition of all fish captured under an EFP, SRP, or display permit must be submitted to NMFS within 5 days of return to port. If an individual issued an EFP, SRP, or display permit captures no HMS in any given month, a “no-catch” report must be submitted to NMFS within 5 days of the last day of the month. Additionally, an annual written summary report of all fishing activities, and disposition of all fish captured, under the permit must be submitted to NMFS for all

EFPs, SRPs, and display permits within 30 days after the expiration date of the permit. Failure to comply with the recordkeeping and reporting requirements could result in the EFP, SRP, or display permit being revoked, suspended, or modified, and the denial of any future applications. See § 635.32(h) for more information.

This detailed reporting of catch information is important for quota management and stock assessment purposes. All sharks collected under the authority of an EFP, SRP, or display permit, subject to restrictions at § 635.32, are counted against the public display and non-specific research quotas at § 635.27(b)(4). All BFT collected under the authority of an EFP, SRP, or display permit are counted against the Reserve or school reserve category quotas (see § 635.27(a)(6)). Annually, NMFS allocates 50 metric tons dressed weight of the North Atlantic swordfish quota to the reserve category for fishery research, among other things (see § 635.27(c)(1)(i)(D)). Although NMFS does not implement a U.S. quota for bigeye, yellowfin, and skipjack tunas, or an EFP- or research-specific quota for albacore, all mortality for these species incurred under an EFP, SRP, or display permit are tracked for future stock assessments.

To facilitate this reporting, the HMS EFP Program currently requires the submission of interim (Excel spreadsheet) and annual (PDF) reports via email, consistent with the requirements at § 635.32(h). Those reporting forms are available on the HMS Management Division website and are shared with HMS EFP holders when their permit is issued. Once received, NMFS staff must then download and manually enter that data into an Excel database. This process is time consuming, can be error prone, and can cause problems in regard to quota monitoring and the timely publication of the annual notice of intent for these permits.

#### *Potential Management Options*

NMFS is considering three options to modify reporting under the HMS EFP Program:

- H1. A voluntary method of electronic reporting.
- H2. Revise requirement to submit interim reports within 5 days.
- H3. Remove requirement to notify NMFS OLE prior to a collection trip.

Under Option H1, NMFS is considering implementing a voluntary method of electronic reporting for the HMS EFP Program. Under this option, HMS EFP holders could enter interim report data into an online portal. Current methods of submitting reports (*i.e.*, via email as an attached Excel or PDF file) could still be available.

Creating an online portal for data submission and automated data management system could result in improved data quality and a more efficient and cost-effective process by removing the additional data processing steps that are currently required. An online portal could also streamline reporting for HMS EFP holders compared to submission of Excel files via email. HMS EFP holders that choose to submit interim reports via the online portal would not need to submit annual reports, since annual reports could be automatically generated from the backend database. However, with a voluntary electronic reporting system, HMS EFP holders may still submit data via current methods (*i.e.*, via email as an attached Excel or PDF file), increasing the administrative burden on NMFS staff to monitor two methods of reporting and consolidate data.

NMFS is also considering two technical changes to the reporting requirements for the HMS EFP Program.

As described above, interim reports on fishing activities, and disposition of all fish captured under an EFP, SRP, or display permit, must be submitted to NMFS within 5 days of return to port or within 5 days of the last day of the month for a “no-catch” report. However, given the extent of data collected on research trips, submitting interim reports within 5 days is often impractical, unrealistic, and unnecessarily burdensome to HMS EFP holders. As a result, in practice, interim reports are rarely submitted on time. Therefore, under Option H2, NMFS is considering revising the requirement to submit

interim reports within 5 days of returning to port to a timeline as specified by NMFS in the terms and conditions of the EFP, SRP, or display permit.

Additionally, in accordance with § 635.32(d)(4), HMS EFP holders collecting HMS for public display must notify the local NMFS Office of Law Enforcement (OLE) at least 24 hours (excluding weekends and holidays) prior to departing on a collection trip and provide details on the collection plans, location, and number of animals to be collected. In the event that a NMFS OLE agent is not available, a message may be left. NMFS OLE has requested that this requirement be removed to eliminate the administrative burden of tracking HMS collection trips. Therefore, under Option H3, NMFS is considering removing the requirement to notify NMFS OLE prior to a collection trip.

These technical changes under Options H2 and H3 would reduce the reporting burden for HMS EFP holders and administrative burden for NMFS.

### **Request for Comments**

NMFS is requesting comments on this advance notice of proposed rulemaking, which may be submitted via *www.regulations.gov* or at a public hearing. NMFS solicits comments on this action by August 18, 2023 (see **DATES** and **ADDRESSES**).

The pros and cons for each management option described above should not be considered exhaustive. The pros and cons are intended to facilitate discussion of the merits of each management option. Interested members of the public are encouraged to provide specific suggestions and recommendations on the options, any additional pros and cons, or other options that NMFS should consider. The reader can consider the management options together, because multiple options can be analyzed and further developed through the regulatory process. Table 1 provides a summary of the management options presented above, on which NMFS is soliciting comments.



**Table 1 -- Summary of Management Options for HMS Electronic Reporting**

**Requirements**

<b>Section</b>	<b>Options and <i>Sub-Options</i></b>
A. Electronic Commercial Atlantic HMS and Southeast Coastal Fisheries Logbooks	A1. Weighout slip requirement
	A2. Reporting requirements for smoothhound shark permit holders
	<i>A2a. Status quo</i> <i>A2b. Include smoothhound shark permit in electronic logbook</i>
B. Electronic Commercial Reporting for Atlantic Tunas General and Harpoon Category Permits and Swordfish General Commercial Permit	B1. Maintain current reporting requirements
	B2. Expanding trip reporting requirements related to currently reported species via electronic logbook
	B3. Expanding species and trip reporting requirements via electronic logbook <i>B3a. Require reporting of all HMS caught</i> <i>B3b. Require reporting of all species caught, including non-HMS</i> <i>B3c. Require reporting for all trips, regardless of if fish are caught</i>
C. HMS Charter/ Headboat Electronic Logbook	C1. Species reporting requirements
	<i>C1a. Status quo</i> <i>C1b. Requirement to report all HMS</i> <i>C1c. Requirement to report all species</i>
	C2. No-fishing reports <i>C2a. Status quo</i>

	<i>C2b. Requirement to submit no-fishing reports</i>
	C3. Costs and earnings information  <i>C3a. Mandatory submission of cost and earnings information for each trip</i>  <i>C3b. Mandatory submission of cost and earnings information if a vessel is selected for reporting</i>  <i>C3c. Collection of cost and earnings information separately via surveys</i>
	C4. Geospatial information  <i>C4a. Status quo</i>  <i>C4b. Collection of geospatial information</i>
D. Timing Requirements for Submission of Electronic Logbooks	D1. Submit prior to landing
	D2. Submit within 24 hours of offloading/completing a trip
	D3. Submit within 48 hours of offloading/completing a trip
	D4. Complete reports to the extent possible prior to landing and submit within 24 hours of offloading/completing a trip
	D5. Complete reports to the extent possible prior to landing and submit within 48 hours of offloading/completing a trip
	D6. Submit within 7 days of offloading (commercial) or once per week (charter/headboat)
E. HMS Angling Permit Reporting Requirements	E1. Status quo
	E2. Requirement to report pelagic sharks
	E3. Requirement to report all sharks
	E4. Requirement to report BAYS tunas
	E5. Requirement to report all HMS including discards

F. Measures to Improve Reporting Compliance for Vessel Owners with HMS Open Access Permits	F1. Reporting incentives
	F2. Permit blocks for non-reporting
G. Individual Fish Reports in eDealer Program and Technical Change in BFT Reporting Requirements	G1. Status quo
	G2. Require reporting of individual fish on dealer reports <i>G2a. Require all HMS to be reported individually on federal dealer reports</i> <i>G2b. Require swordfish, BAYS tunas, and pelagic shark species to be reported individually on federal dealer reports</i>
	G3. Removing the requirement to submit a bi-weekly report for BFT
H. Electronic Reporting for the HMS EFP Program	H1. A voluntary method of electronic reporting
	H2. Revise requirement to submit interim reports within 5 days
	H3. Remove requirement to notify NMFS OLE prior to a collection trip

In addition, NMFS is soliciting responses to the specific questions described in under Option A1:

- Which entity (*e.g.*, the dealer, the captain, a crew member) currently creates the weighout slip?
- How are the weighout slips currently created?
- Are the weighout slips created only at the first port of offloading or at every port of offloading?
- Do the weighout slips include fish that are sold to dealers, fish of low quality (*i.e.*, not sold to a dealer), and fish kept for personal consumption?
- Would a standardized format help with creating the weighout slips?

- What would ease the burden (in time and costs) associated with creating the weighout slips (e.g., a form filled out electronically with the logbook, a form that could be filled out and uploaded separate from the logbook)?

During the comment period, NMFS will hold five public hearings and two public hearings via webinars for this advance notice of proposed rulemaking, as shown in Table 2. The hearing locations will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Soltanoff at [carrie.soltanoff@noaa.gov](mailto:carrie.soltanoff@noaa.gov) or 301-427-8503, at least 7 days prior to the meeting.

**Table 2 -- Dates, Times, and Locations of Upcoming Public Hearings and Webinars**

<b>Date and Time</b>	<b>Location</b>
June 6, 2023, 5 p.m.-8 p.m.	Broward County Library - Imperial Point 5985 North Federal Highway Fort Lauderdale, FL 33308
June 13, 2023, 2 p.m.-4 p.m.	Information on the webinar will be posted at: <a href="https://www.fisheries.noaa.gov/action/advance-notice-proposed-rulemaking-electronic-reporting-requirements">https://www.fisheries.noaa.gov/action/advance-notice-proposed-rulemaking-electronic-reporting-requirements</a>
June 14, 2023, 5 p.m.-8 p.m.	Ocean County Library - Toms River 101 Washington Street Toms River, NJ 08753
June 21, 2023, 5:30 p.m.-8:30 p.m.	Dare County Library - Manteo 700 Highway 64/264 Manteo, NC 27954
July 27, 2023, 2 p.m.-4 p.m.	Information on the webinar will be posted at: <a href="https://www.fisheries.noaa.gov/action/advance-notice-proposed-rulemaking-electronic-reporting-requirements">https://www.fisheries.noaa.gov/action/advance-notice-proposed-rulemaking-electronic-reporting-requirements</a>
August 3, 2023, 5 p.m.-8 p.m.	Belle Chasse Auditorium 8398 LA-23 Belle Chasse, LA 70037
August 9, 2023, 5 p.m.-8 p.m.	Greater Atlantic Regional Fisheries Office 55 Great Republic Drive Gloucester, MA 01930

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the

hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). At the beginning of the webinar, the moderator will explain how the webinar will be conducted and how and when attendees can provide comments. The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they may be asked to leave the hearing or may not be allowed to speak during the webinar.

### **Classification**

This action has been determined to be not significant for purposes of Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: May 5, 2023.

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Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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